

352, 07446

B65c

1837

1837 P

(B) 1814

CITY OF BOSTON.

City Council, October 16, 1837.

The Joint Committee who were instructed "to revise the City Charter, and prepare a new draft thereof, which shall contain all the amendments they may deem desirable, and to report said draft in sufficient season for the action of the inhabitants upon it at the next municipal election," have given such careful attention to the subject as its great importance demanded, and ask leave respectfully to report the accompanying draft, with the following explanation of the changes they have thought it expedient to recommend.

The first alteration to which they would call attention is one of form, being merely the incorporating, in the proper places, of the various acts in addition to the act establishing the city of Boston. In connexion with this point the Committee will take occasion to state that they have given their attention to the phraseology of the draft throughout, and have endeavored to make it more perspicuous, and wherever it was practicable, more simple.

The first improvement in the substance of the act relates to the provision which is made for the election of ward officers, and for proceeding with elections, by adjournment, in cases of non-election of ward officers and members of the Common Council. The endeavor of the Committee was to make the necessary arrangements such as would be at once convenient to the citizens, and likely to secure to them, in the most perfect manner, the advantages of the right of suffrage. They have attempted also to make the language as perspicuous as the nature of the case would permit. These provisions will be found in sections 3 and 8.

In the ninth Section there is a new provision for determining the right of a person returned as a member of the School Committee to a seat at the Board. It may be recollectcd

that the revision of the whole charter originated in a case of contested election of a member of the School Committee, which there seemed to be no power vested in any body finally to determine. The powers of the School Committee are also more precisely defined, in the 31st Section.

The 22d section provides, in a somewhat more exact and definite manner than was done by the 16th section of the Charter, for the care and superintendence of the public buildings, and the management of the property of the city. Questions have heretofore arisen upon this point, which it will be in the power of the City Council definitively to settle, if this amendment should pass.

The 24th section authorises the City Council to determine the mode of election of the Overseers of the Poor, instead of prescribing, as was done by the 19th section of the charter, that they shall be elected at the annual ward meetings. The object of the Committee, in recommending this alteration, is to ascertain if the citizens will authorise such a change in the organization of the Board of Overseers, as will render that body responsible to the City Council. Some attempts have heretofore been made to this effect, without success, in consequence, as the Committee believed, of the subject not being generally understood. It is not commonly known that the Overseers of the Poor are, as a corporation established by law, the managers of a fund derived from private contribution, bequests and legacies, which, at the present time, amounts to considerably more than one hundred thousand dollars, and for the use and disbursement of which, they are practically responsible to no one. These funds were given by different individuals for objects not very unlike in their character those for which the city gives the control of money to the overseers, every year, in the appropriation bill; and it seems proper that the body which is called upon to make the appropriation should have the means of knowing how large that appropriation ought to be. As it is, no one but an Overseer of the Poor knows the amount of income from these private funds, nor how far they may be used for the same purposes to which the public contributes.

There seems to have been some jealousy felt on this subject; as if the City Council were desirous of grasping a power which did not properly belong to them, or of abolishing the Board of Overseers, or of diminishing the amount of funds distributed for the benefit of the poor. Nothing can be less well founded than either suspicion. The power of determining the amount to be appropriated to any particular object, ought, one would naturally think, to belong to the board that makes the appropriation, rather than to that which disburses the money. The latter may, of course, make a representation of their wants, but at the same time, they should also state their resources. This is never done by the Overseers, and the City Council have no data, but the opinion of the Board of Overseers, on which to form a judgment as to the amount necessary to be appropriated in any year. The whole object of making the Board of Overseers responsible to the City Council is to insure that accountability in the disbursement of money which is justly insisted on in every other branch of the public service, and to which the anomalous independence of the Overseers of the Poor is the only exception. The Committee have thought it necessary to say this in explanation of the most important alteration they have suggested.

The Committee deem it desirable that the inhabitants of the city should vote upon each of these alterations separately, and propose that ballots should be given in, in the following form.

CITY CHARTER, NEW DRAFT.

Shall Section 3d be approved ?

Shall Section 8th be approved ?

Shall Section 9th be approved ?

Shall Section 22d be approved ?

Shall Section 24th be approved ?

Shall Section 31st be approved ?

Shall Section 34th be approved ?

Shall Section 35th be approved ?

Shall the new draft be presented to the Legislature for their action, with the exception of such sections (if any) as

may be voted against by a majority of the citizens, and in case any of these alterations be rejected by the citizens, shall the draft be sent to the Legislature conforming to the previous provisions of the charter on the subjects where the change proposed is not accepted?

In order that the inhabitants may have opportunity to consider the various subjects of amendment, the Committee would recommend that a sufficient number of copies of the new draft be printed for distribution, and report the following order.

For the Committee,

SAML. A. ELIOT.

Ordered, That seven thousand copies of the new draft of the City Charter, together with this report, be printed, and distributed in the several wards, as speedily as may be; and that the citizens be called upon to give in their votes upon the several subjects herein mentioned, in the warrants for the annual election of municipal officers in December next.

In the Board of Aldermen, October 16, 1837.

The foregoing report and order were laid on the table, and the usual number of copies ordered to be printed for the use of the members of the City Council.

Attest, S. F. McCLEARY, *City Clerk.*

In Board of Aldermen, October 23, 1837.

Read and accepted and the order passed.

Sent down for concurrence.

SAMUEL A. ELIOT, *Mayor.*

In Common Council, November 23, 1837.

Read and concurred, with sundry amendments.

PHILIP MARETT, *President.*

In Board of Aldermen, November 24, 1837.

Read and the amendments agreed to.

SAMUEL A. ELIOT, *Mayor.*

AN ACT
ESTABLISHING THE CITY OF BOSTON.

BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows: SECT. 1. The Inhabitants of the Corporate Powers. City of Boston, for all purposes for which towns and cities are by law incorporated in this commonwealth, shall continue to be one body politic, in fact and in name, under the style and denomination of the city of Boston, and as such, shall have, exercise, and enjoy, all the rights, immunities, powers, and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to said city, as a municipal corporation. And the administration of all the fiscal, prudential, and municipal concerns of said city, with the conduct and government thereof, shall be vested in one principal officer, to be styled the Mayor, one select council, consisting of eight persons, to be denominated the Board of Aldermen, and one more numerous council to consist of forty-eight persons, to be denominated the Common Council (which boards, in their joint capacity, shall be denominated the City Council) and also in such other boards of officers, as are hereinafter specified.

SECT. 2. The annual meeting of citizens for the election of municipal officers hereinafter mentioned, shall be held on the first Wednesday of December, and the citizens of said city, qualified to vote in city affairs, shall for the purpose of such election then meet together within their respective wards, at such hour and place as the Mayor and Aldermen may by their warrant direct and appoint. And in order to determine the result of any election, the whole number of persons who voted at such election shall first be ascertained by counting the whole number of separate ballots given in; and no person

shall be deemed or declared to be elected, who shall not have received a majority of the whole number of ballots; and in all returns of elections, the whole number of ballots given in shall be distinctly stated; but blank pieces of paper shall not be counted as ballots; and if at any election, a greater number of candidates, than the number to be elected, shall severally receive a majority of the whole number of ballots, a number equal to the number to be elected, of such as have the greatest excess over such majority, shall be deemed and declared to be elected; but if the whole number to be elected cannot be thus completed, by reason of any two or more of such candidates having received an equal number of ballots, the candidates having such equal number shall be deemed not to be elected.

Election of
Ward offi-
cers. SECT. 3. The citizens of said city shall at their annual meeting choose by ballot one Warden and one Clerk, and five Inspectors of elections for each ward, who shall be resident in said ward, who shall hold their offices for one year, and until others shall be appointed in their stead. And it shall be the duty of such Warden to preside at all meetings of the citizens of such ward, to preserve order therein; and it shall be the duty of such Clerk to make a fair and true record, and keep an exact journal of all the acts and votes of the citizens at such ward meetings; and to deliver over such records and journals, together with all other documents and papers held by him in his said capacity, to his successor in such office. And if at any meeting, the Warden shall be absent, the Clerk, shall call the citizens to order and preside, until a Warden *pro tempore* shall be chosen; which may be done by nomination and hand vote, if the Clerk so direct. And it shall be the duty of the Warden and Inspectors, in each ward, to receive, sort, and count, and of the Warden to declare all votes at all elections within such ward. And the Warden, Clerk, and Inspectors, so chosen, shall respectively be under oath, faithfully and impartially to discharge their several duties relative to all elections;

which oath may be administered by the Clerk of such ward, to the Warden, and by the Warden to the Clerk and Inspectors, or to all said officers, by any Justice of the peace for the county of Suffolk; and a certificate that such oaths have been administered, shall be entered in the record or journal to be kept by the Clerk of such ward, and in case of the absence of the Clerk or any of the Inspectors from any ward meeting, such officers may be chosen *pro tempore* by hand vote. In case no election of Warden, Clerk or Inspectors should be made at the annual meeting, adjournments may be had for the purpose of effecting such election, in the same manner as is herein-after provided with regard to the election of members of the Common Council.

SECT. 4. The Warden, or other presiding officer of such ward meeting, shall have full power and authority to preserve order and decorum and to repress all riotous, tumultuous, and disorderly conduct therein, and for that purpose to call to his aid, any constable or other peace officer, and also to command the aid and assistance of any citizen or citizens, who may be present; and any peace officer, or other citizen, neglecting or refusing to afford such aid, shall be taken and deemed to be guilty of a misdemeanor. And such Warden shall also have power and authority, by warrant, under his hand, to cause any person or persons who shall be guilty of any riotous, tumultuous, or disorderly conduct at such meeting, to be taken into custody and restrained: *Provided, however,* That such restraint shall not continue after the adjournment or dissolution of such meeting: *And provided, further,* That the person, so guilty of such disorderly conduct, shall be liable, notwithstanding such restraint, to be prosecuted and punished, in the same manner, as if such arrest had not been made.

SECT. 5. The citizens of said city, shall, at their annual meeting, be called on to give in their votes for one able and discreet person, being an inhabitant of the city, to be Mayor of the said city for the term of one year. *And* Election of Mayor.

all votes so given in, in each ward, being sorted and counted by the Warden and Inspectors, and declared by the Warden, shall be recorded at large, by the Clerk, in open ward meeting: and in making such declaration and record, the whole number of votes or ballots, given in, shall be distinctly stated, together with the name of every person voted for, and the number of votes given for each person respectively; such numbers to be expressed in words at length; and a transcript of such record, certified and authenticated by the Warden, Clerk, and a majority of the Inspectors of elections for each ward, shall forthwith be transmitted or delivered by such ward Clerk, to the City Clerk. And it shall be the duty of the City Clerk, forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, upon the journal of the proceedings of the Mayor and Aldermen, or some other book to be kept for that purpose. And it shall be the duty of the Mayor and Aldermen to meet together within two days after such election, and to examine and compare all the said returns, and to ascertain whether any person has a majority of all the votes given for Mayor; and in case a majority is so given, it shall be their duty to give notice thereof, in writing, to the person thus elected, and also to make the same known to the inhabitants of said city. But if, on such an examination, no person appears to have a majority of all the votes given for Mayor, the Mayor and Aldermen for the time being, shall issue their warrants for meetings of the citizens of the respective wards, for the choice of a Mayor, at such time and place, as they shall judge most convenient. And the same proceedings shall be had in all respects, as are herein before directed, until a Mayor shall be chosen by a majority of all the voters voting at such elections. And whenever, on examination by the Mayor and Aldermen, of the returns of votes given for Mayor at the meeting in the wards holden for the purpose of electing that officer, last preceding the first Monday of January, no person shall appear to have a majority of all the votes

given for Mayor, the Mayor and Aldermen, by whom such examination is made, shall make a record of that fact, an attested copy of which, it shall be the duty of the City Clerk to produce and read, on the first Monday of January, in the presence of the members returned to serve as Aldermen and Common Council-men, assembled together, at which meeting the senior member chosen to serve in the Board of Aldermen shall preside; and thereupon the oaths may be administered to the members élect, as is hereinafter provided ; and the Board of Aldermen shall then proceed to elect a Chairman, and the Common Council a President, in their respective chambers, and being respectively organized, shall proceed to business. And the Board of Aldermen shall forthwith issue their warrants for meetings of the citizens of the respective wards, for the choice of a Mayor, at such time and place as they shall judge most convenient ; and the same proceedings shall be had, in all respects, as are before directed, and repeated from time to time, until a Mayor be chosen by a majority of all the voters voting at such elections.

SECT. 6. In case any person elected Mayor of said city, shall refuse to accept the office, the same proceedings shall be had, in all respects, as are herein before directed in cases wherein there has been no choice of Mayor, until a Mayor be chosen by a majority of votes.— And in case of the unavoidable absence, by sickness or otherwise, of the Mayor elect, on the first Monday in January, the City government shall organize itself in the mode herein before provided in cases wherein no person shall have been elected Mayor at the meeting last preceding the first Monday in January, and may proceed to business in the same manner as if the Mayor were present. And in case of the decease, inability, or absence of the Mayor, and the same being declared, and a vote passed by the Aldermen and Common Council, respectively, declaring such cause, and the expediency of electing a Mayor, for the time being, to supply the vacancy thus occasioned, it shall be lawful for the Aldermen and Common Council to

meet in convention, and elect a Mayor to hold the said office until such occasion shall be removed, or until a new election.

Election of Aldermen.

SECT. 7. The citizens of said city, shall, at their annual meeting, be called upon to give in their votes for eight able and discreet persons, being inhabitants of said city, to constitute the Board of Aldermen for the ensuing year; and all the votes so given in, in each ward, being sorted and counted by the Warden and Inspectors and declared by the Warden, shall be recorded at large by the Clerk, in open ward meeting; and in making such declaration and record, the whole number of ballots given in, shall be particularly stated, together with the name of every person voted for, the number of votes given for each person, and also the number of blanks or ballots containing some name or names; and a transcript of such record, certified by the Warden and Clerk, and a majority of the Inspectors of each ward, shall, by the said Clerk, within two days, be transmitted to the City Clerk, whereupon the same proceedings shall be had to ascertain and determine the persons chosen as Aldermen, as are herein before directed in regard to the choice of Mayor, and for a new election, in case of the whole number required not being chosen at the first election. And in case of the death or resignation of any member of the Board of Aldermen, the same proceedings shall be had, for the purpose of filling the vacancy thereby occasioned, as is herein before provided for the annual meeting. And each Alderman so chosen, shall be duly notified in writing, of his election, by the Mayor and Aldermen for the time being.

Election of Common Council.

SECT. 8. At the annual meeting, the citizens of each ward shall be called upon to give in their votes for four able and discreet men, being inhabitants of said ward, to be members of the Common Council: and all the ballots so given in, in each ward, being sorted and counted by the Warden and Inspectors, and declared by the Warden, if it appear that four persons have a majority

of all the ballots given at such election, a public declaration thereof, with the names of the persons so chosen, shall be made by the Warden, in open ward meeting ; and in all cases, a record of such proceedings shall be kept by the wlerk, in his journal, stating particularly the whole number of ballots given in, the number necessary to make a choice, the number actually given for each person, and also the number of blanks on ballots containing some name or names,—the whole to be written in words at length. In case four persons are not chosen at the first balloting in any ward, the meeting of said ward shall be adjourned, by the presiding officer, for the purpose of filling the vacancies, to a period not less than twenty-four, nor more than seventy-two hours distant, from the hour when the polls were opened at the first balloting, the time of adjournment, within such limits, to be determined by the hand vote of the citizens of the ward, who may be present, when such adjournment is had ; and at such adjourned meeting, a balloting shall be opened for a number of wommon wouncilmen, sufficient to complete the number of four, which shall be conducted, and its result be declared and recorded in the same manner, as before prescribed for the first balloting. And in case there shall still be vacancies in the number of Common Councilmen, in any ward, adjournments of the meetings of the citizens thereof, for the purpose of filling the same, shall continue to be had in the same manner to periods not less than twenty-four, nor more than seventy-two hours distant from each other, at all of which, the balloting shall be conducted, and the result be declared and recorded in the same manner as before prescribed, until the number of four shall be duly chosen. And at all such adjournments the polls shall be kept open the same number of hours as were required by the original warrant. *Provided, however,* That if at the close of the last legally adjourned meeting of any ward, as aforesaid, preceding the first Monday of January, there shall still be vacancies in the number of Common Councilmen for any ward, no further adjournment shall be had,—

but a record of the fact, and of the number of such vacancies, shall be made by the Clerk of the ward in his journal, signed therein by the Warden, Clerk, and a majority of the Inspectors, an attested copy of which record, shall forthwith be delivered by the Clerk of the ward, to the City Clerk, whose duty it shall be to lay the same before the Mayor and Aldermen, at their first meeting in January: and the Mayor and Aldermen shall forthwith issue their warrant for a meeting of the citizens of such ward to fill the vacancies in the number of Common Councilmen, at such time and place as they shall judge most convenient. And the same proceedings and adjournments, if necessary, within the same limits, shall be had in all respects, under such new warrant, as have been prescribed, under the former one, until the number of four Common Councilmen for such ward, shall be duly chosen. And in case of the death or resignation of any member of the Common Council, the Mayor and Aldermen, upon receiving official notice thereof, from the Common Council, shall forthwith issue their warrant for a meeting of the citizens of the ward, in which such vacancy has occurred, for the purpose of filling the same: and the same proceedings shall be had in all respects, and adjournments, if necessary, within the same limits, under such warrant, as have been prescribed, for the annual meeting for the election of Common Councilmen. *Provided, however,* That if any such vacancy shall not have been filled at the close of the last legally adjourned meeting of any ward, prior to the first Monday of January, no further proceedings shall be had, but the meeting shall be adjourned without day. And notice shall be given of all the adjournments before mentioned in two or more of the public newspapers by the Clerk of each ward. All persons chosen as members of the Common Council, in each ward, shall, within two days of their election, be furnished with a certificate thereof, signed by the Warden, Clerk, and a majority of the Inspectors of such ward; which certificate shall be presumptive evidence of the title of such person to a seat

in the Common Council; but such Council shall have authority to decide ultimately upon all questions relative to the qualifications, elections, and returns of its members.

SECT. 9. The citizens of each ward, shall be called up-
on, at their annual meeting, to give in their votes for two
able and discreet men, being inhabitants of said ward, to
be members of the School Committee, and thereupon the
same proceedings shall be had as are before directed in
the election of members of the Common Council. And
each of the persons so chosen as a member of the School
Committee, in each ward, shall, within two days of his
election, be furnished with a certificate thereof, signed by
the Warden, Clerk, and a majority of the Inspectors of such
ward; which certificate shall be presumptive evidence of
the title of such person to a seat in the said board, but
said committee, shall have authority to decide ultimately
upon all questions relative to the qualifications, elections,
and returns of its members.

SECT. 10. Every male citizen of twenty-one years of age
and upwards, excepting paupers, and persons under guar-
dianship, who shall have resided within the commonwealth
one year, and within the city six months next preceding any
meeting of citizens, either in wards, or in general meeting,
for municipal purposes, and who shall have paid by him-
self or his parent, master, or guardian, any state or county
tax, which, within two years next preceding such meeting,
shall have been assessed upon him, in any town or district
in this commonwealth, and also every citizen who shall
be, by law, exempted from taxation, and who shall be in
all other respects qualified as above mentioned, shall have
a right to vote at such meeting, and no other person shall
be entitled to vote at such meeting.

SECT. 11. The Mayor, Aldermen and Common Coun-
cil men, chosen as aforesaid, shall enter on the duties of
their respective offices on the first Monday in January, in
each year; and before entering on the duties of their
offices, shall respectively be sworn, by taking the oath of
allegiance and oath of office, prescribed in the constitu-

tion of this commonwealth, and an oath to support the constitution of the United States. And such oaths may be administered to the Mayor elect, by any one of the Justices of the Supreme Judicial Court, or any Judge of any court of record, commissioned to hold any such court, within the said city, or by any Justice of the Peace for the county of Suffolk. And such oaths shall and may be administered to the Aldermen and members of the Common Council, by the Mayor, if present, being himself first sworn as aforesaid ; and in case he is absent, or no Mayor shall have been chosen, then by either of the Justices aforesaid ; and a certificate that such oaths have been taken shall be entered in the journal of the Mayor and Aldermen, and of the Common Council respectively, by their respective clerks.

Meetings of
Mayor and
Aldermen. SECT. 12. The Mayor and Aldermen, thus chosen and qualified, shall compose one board, and shall sit and act together as one body, at all meetings of which, the Mayor, if present, shall preside ; but in his absence, the board may elect a chairman, for the time being. All meetings of the Mayor and Aldermen, when they are not engaged in executive business, shall be public.

Election and
duties of
City Clerk. SECT. 13. The Mayor and Aldermen, together with the Common Council, in convention, shall choose a Clerk, for the term of one year, and until another person is duly chosen to succeed him, who shall be sworn to the faithful discharge of the duties of his office, and shall be removable at the pleasure of the Mayor and Alderman. He shall be denominated the City Clerk, and it shall be his duty to keep a journal of the acts and proceedings of the said board, composed of the Mayor and Aldermen ; to sign all warrants issued by them, and to do such other acts in his said capacity, as may lawfully and reasonably be required of him ; and to deliver over all journals, books, papers, and documents, entrusted to him as such Clerk, to his successor in office, immediately upon such successor being chosen and qualified as aforesaid, or whenever he may be thereunto required by the Mayor and Aldermen.

And the City Clerk thus chosen and qualified, shall continue to have all the powers, and perform all the duties now by law belonging to him.

SECT. 14. The persons so chosen and qualified, as members of the Common Council of the said city, shall sit and act together as a separate body, distinct from that of the Mayor and Aldermen, except in those cases in which the two bodies are to meet in convention ; and the said Council shall have power, from time to time, to choose one of their own members to preside over their deliberations, and to preserve order, who shall be denominated the President of the Common Council, and also to choose a Clerk, who shall be under oath faithfully to discharge the duties of his office, who shall hold such office during the pleasure of said Council, and whose duty it shall be to attend said Council, when the same is in session, to keep a journal of its acts, votes and proceedings, and to perform such other services in said capacity, as said Council may require. All sittings of the Common Council shall be public ; and twenty-five members shall constitute a quorum for the transaction of business.

SECT. 15. The Mayor of the said city, thus chosen and qualified, shall be taken and deemed to be the chief executive officer of said corporation ; and he shall be compensated for his services by a salary, to be fixed by the board of Aldermen and Common Council, in City Council assembled, payable at stated periods ; which salary shall not exceed the sum of five thousand dollars annually, and he shall receive no other compensation or emoluments whatever ; and no regulations enlarging or diminishing such compensation shall be made, to take effect until the expiration of the year, for which the Mayor then in office, shall have been elected. And it shall be the duty of the Mayor to be vigilant and active at all times, in causing the laws for the government of said city to be duly executed and put in force ; to inspect the conduct of all subordinate officers of the government thereof, and as far as may be in

Meetings of
Common
Council.

Election and
duty of Clerk
of Common
Council.

Salary and
duties of
Mayor.

his power, to cause all negligence, carelessness, and positive violation of duty, to be duly prosecuted and punished. He shall have power, whenever in his judgment, the good of said city may require it, to summon meetings of the Board of Aldermen and Common Council, or either of them, although the meetings of said boards may stand adjourned to a more distant day. And it shall be the duty of the Mayor, from time to time, to communicate to both branches of the City Council all such information, and recommend all such measures as may tend to the improvement of the finances, the police, health, security, cleanliness, comfort, and ornament of the said city.

Executive powers of Mayor and Aldermen.

Police.

Licenses to innholders, victuallers & retailers

SECT. 16. The administration of police, together with the executive powers of the said corporation generally, and all the powers formerly vested in the selectmen of the town of Boston, either by the general laws of this Commonwealth, by particular laws relative to the powers and duties of said selectmen, or by the usages, votes, or by-laws of said town, and all the powers subsequently vested in the Mayor and Aldermen of said City, shall be and hereby are vested in the Mayor and Aldermen, as hereby constituted, as fully and amply as if the same were herein specially enumerated.

SECT. 17. The said Mayor and Aldermen shall continue to have full and exclusive power to grant licenses to innholders, victuallers, and retailers, within the said city, in all cases wherein they are now authorized to grant such licenses ; and in granting such licenses, it shall be lawful for the said Mayor and Aldermen to annex thereto such reasonable conditions in regard to time, place, and other circumstances, under which such license shall be acted upon, as in their judgment, the peace, quiet, and good order of the city may require. Also to take bonds of all persons so licensed, in reasonable sums, and with sufficient sureties, conditioned for a faithful compliance with the terms of their said licenses, and of all laws and regulations respecting such licensed houses. And said Mayor

and Aldermen, after the granting of any such license, shall have power to revoke or suspend the same, if in their judgment the order and welfare of said city require it. And any person or persons who shall presume to exercise either of the said employments, within said city, without having first obtained a license therefor, or in any manner contrary to the terms of said license, or after the same shall have been revoked or suspended, shall be liable to the same penalties and forfeitures, to be prosecuted for in the same manner as now by law provided, in case of exercising either of said employments without a license ; and shall also be taken and deemed to have forfeited their bonds, respectively given as aforesaid, upon which suits may be instituted against such licensed persons or their sureties, at the discretion of the said Mayor and Aldermen, and in such manner as they may direct, for the purpose of enforcing such forfeitures : *Provided, however,* That all innholders, retailers, and victualers, shall, on being licensed as aforesaid, pay the same sum now required by law ; which sum shall be accounted for in the same way and manner as is now required by law.

SECT. 18. The Mayor and Aldermen shall have power Licenses to theatres and other exhibitions. to license all theatrical exhibitions, and all public shows, and all exhibitions of whatever name or nature, to which admission is obtained on payment of money, on such terms and conditions as to them may seem just and reasonable ; and to regulate the same from time to time, in such manner as to them may appear necessary to preserve order and decorum, and to prevent the interruption of peace and quiet. And any person or persons who shall set forth, establish, or promote any such exhibition or show, or publish, or advertise the same, or otherwise aid or assist therein, without a license so obtained as aforesaid, or contrary to the terms or conditions of such license, or whilst the same is suspended, or after the same is revoked by said Mayor and Aldermen, shall be liable to such forfeiture, as the City Council may, by any by-law made for that purpose prescribe.

SECT. 19. All other powers, heretofore by law vested in the town of Boston, or in the inhabitants thereof,^{By-laws and ordinances.}

as a municipal corporation, or in the City Council of the City of Boston, shall be, and hereby are continued to be vested in the Mayor and Aldermen, and Common Council of the said City, to be exercised by concurrent vote, each board, as hereby constituted, having a negative upon the proceedings of the other. More especially they shall have power to make all such needful and salutary by-laws or ordinances, as towns by the laws of this commonwealth have power to make and establish, and to annex penalties not exceeding fifty dollars for the breach thereof, which [by-laws and ordinances shall take effect and be in force, from and after the time therein respectively limited, without the sanction or confirmation of any court, or other authority whatsoever; *Provided*, That such by-laws and ordinances shall not be repugnant to the constitution and laws of the commonwealth: *And provided also*, That the same shall be liable to be annulled by the Legislature thereof.

**Assessment
of taxes.**

SECT. 20. The said City Council shall also have power, from time to time, to lay and assess taxes for all purposes for which towns are by law required or authorized to assess and grant money, and also for all purposes for which county taxes may be levied and assessed; *Provided, however*, That in the assessment and apportionment of all such taxes upon the polls and estates of all persons liable to contribute thereto, the same rules and regulations shall be observed as are now established by the laws of this commonwealth, or may be hereafter enacted, relative to the assessment and apportionment of town taxes. The said City Council shall also have power to provide for the assessment and collection of such taxes, and to make appropriations of all public moneys, and provide for the disbursement thereof, and take suitable measures to ensure a just and prompt account thereof; and for these purposes, may either elect such Assessors and Assistant Assessors as may be needful, or provide for the appointment or election of the same, or any of them, by the Mayor and Aldermen, or by the citizens, as in their judgment may be most conducive to the public good, and may also require of all persons entrusted with the collection, custody, or disbursement of public

moneys, such bonds, with such conditions and such securities, as the case may in their judgment require.

SECT. 21. The said City Council shall have power, and they are hereby authorised to provide for the appointment or election of all necessary officers, for the good government of said city, not otherwise provided for; to prescribe their duties, and fix their compensation, and to choose a Register of Deeds, whenever the city shall be one county.

SECT. 22. The City Council also shall have the care and superintendence of the public buildings, and the care, custody, and management of the property of the city, with power to lease or sell the same, except the Common and Faneuil Hall, and to authorise and empower either branch of said council or any committee thereof to lease or sell the same. And the said City Council shall have power also to purchase property, real or personal, in the name, and for the use of the city, whenever its interest or convenience may, in their judgment, require it.

SECT. 23. All the power and authority now by law vested in the City Council relative to the preservation of the public health and the quarantine of vessels, shall continue to be vested in the said City Council, to be carried into execution by the appointment of Health Commissioners, or in such other manner as the health, cleanliness, comfort, and order of the city may, in their judgment, require, subject to such alterations as the Legislature may from time to time adopt.

SECT. 24. The said City Council shall have power and they are hereby authorised to provide for the election of one person in each ward as Overseers of the Poor for the said City.

SECT. 25. The said City Council shall have power, if they see fit, to elect the Mayor and Aldermen to be Surveyors of highways for said city.

SECT. 26. The Mayor and Aldermen of said city, and the said Common Council shall, as soon as conveniently may be, after their annual organization, meet together in convention, and elect some suitable and trustworthy person to be the Treasurer of said city.

Accountability in expenditure of money.

SECT. 27. All boards, and officers, acting under the authority of said corporation, and entrusted with the expenditure of public money, shall be accountable therefor to the City Council in such manner as they may direct. And it shall be the duty of the City Council to publish and distribute, annually, for the information of the citizens, a particular statement of the receipts and expenditures of all public moneys, and a particular statement of all city property.

Nominations by Mayor.

SECT. 28. In all cases in which appointments to office are directed to be made by the Mayor and Aldermen, the Mayor shall have the exclusive power of nomination; such nomination, however, being subject to be confirmed or rejected by the Board of Aldermen.

Members of City Council ineligible to other offices.

SECT. 29. No person shall be eligible to any office, the salary of which is payable out of the city treasury, who at the time of his appointment, shall be a member of either the Board of Aldermen or Common Council; and neither the Mayor nor any Alderman, or member of the Common Council, shall, at the same time, hold any other office under the city government.

School Committee.

SECT. 30. The School Committee shall consist of the Mayor of the City, the President of the Common Council, and of the twenty-four persons, chosen as is prescribed in the ninth section of this act. And at all meetings of the Board the Mayor, if present, shall preside.

Powers of School Committee.

SECT. 31. The said Committee shall have the care and management of the Public Schools, and may elect all such instructors as they deem proper and remove the same whenever they consider it expedient. And they are also empowered to distribute the sum, which shall be annually appropriated by the City Council, among the instructors in the Public Schools, so fixing the amount of the salary of each instructor, however, as that in no case shall the aggregate amount of all said salaries, exceed the whole sum that shall have been so appropriated by the said Council. And generally they shall have all the powers, in relation to the care and management of the Public Schools, which the Selectmen of Towns or School

Committees, are authorised by the laws of this Commonwealth to exercise.

SECT. 32. It shall be the duty of the two branches of the City Council, in the month of October, in each year, to meet in convention, and determine the number of Representatives, which it may be expedient for the corporation to send to the General Court in the ensuing year, within its constitutional limits, and to publish such determination, which shall be conclusive; and the number thus determined shall be specified in the warrant calling a meeting for the election of representatives.

SECT. 33. All elections for Governor, Lieutenant Governor, Senators, Representatives, Representatives to Congress, and all other officers, who are to be chosen and voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections in their respective wards, at the time fixed by law for those elections respectively. And at such meetings, all the votes given in, being collected, sorted and counted by the Warden and Inspectors, and declared by the Warden, in each ward, it shall be the duty of the Clerk of such ward to make a true record of the same, specifying therein the whole number of ballots given in, the name of each person voted for, and the number of votes for each, and also the number of blanks on ballots containing some name or names, expressed in words at length. And a transcript of such record, certified by the Warden, Clerk, and a majority of the Inspectors of elections in such ward, shall forthwith be transmitted or delivered by each Ward Clerk to the City Clerk. It shall be the duty of the City Clerk forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, in the journals of the proceedings of the Mayor and Aldermen, or in some other book kept for that purpose. And it shall be the duty of the Mayor and Aldermen to meet together within two days after every such election, and examine and compare all the said returns, and thereupon to make out a certificate of the result of such election, to be signed by the Mayor and a majority of the Aldermen, and also by the City Clerk, which shall

be transmitted, delivered, or returned, in the same manner as similar returns are now by law directed to be made, and such certificates and returns shall have the same force and effect in all respects, as like returns of similar elections made by the Selectmen of towns. In all elections for Representatives to the General Court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the Mayor and Aldermen shall forthwith issue their warrant for a new election, and the same proceedings shall be had in all respects as are herein before directed, until the whole number shall be elected.

List of citizens and qualified voters. **SECT. 34.** It shall be the duty of the Assessors of the City of Boston, once in each year, at the time when they make a list of the inhabitants for the purposes of taxation, to make also a separate and distinct alphabetical list of the qualified voters in the respective wards, so far as they can ascertain them by careful inquiry in their annual visits through the City, taking care that each name is spelt correctly—designating separately the name of each person composing a firm or copartnership, and specifying, as far as practicable, the street and number where each voter on their said list resides.

And it shall further be the duty of the said Assessors, to deposit the original lists of voters so made by them, as they are completed for each ward, with the Mayor and Aldermen.

Ward lists. **SECT. 35.** It shall be the duty of the City Treasurer, twice in each year, namely, once in the month of October, not more than twenty, nor less than fifteen days before the second Monday in November, and once in the month of November, not more than twenty nor less than fifteen days before the first Wednesday in December, to return to the Mayor and Aldermen an accurate list of all persons who shall not have paid into the City Treasury any State or County tax, which within two years preceding the time of such return shall have been assessed upon them, excepting such as shall be by law exempt from taxation.

SECT. 36. It shall be the duty of the Mayor and Aldermen, ten days at least prior to the election of city offi-

cers, or of any officer or officers under the government of the United States, or of this Commonwealth, from the last list of qualified voters of the city, deposited with them by the Assessors, and from the last return made to them by the City Treasurer as directed, and from such other satisfactory evidence, as may be furnished them, to make out correct alphabetical lists of all the citizens of each ward, qualified to vote in such elections,—to cause the said list for each ward, to be posted up in one or more public places, in each ward respectively, ten days at least prior to each election—and also to cause one copy of all such ward lists to be exposed to public inspection, at their room, for the space of at least ten days prior to every election. And the said Mayor and Aldermen, shall by the full board or by a committee, as they shall deem best, be in session, for the space of ten days at least prior to the day of election, for the purpose of receiving evidence of the qualifications of persons, claiming a right to vote in such elections, and of correcting the lists of voters. And it shall further be the duty of the said Mayor and Aldermen, at a reasonable time before the opening of the polls for each election, to deliver such list of voters in each ward, so prepared and corrected, to the Clerk of said ward, to be used by the Warden and Inspectors thereof at such election;—and after such lists have been so delivered to the Clerks of the several wards, no alterations therein shall be made, of any kind, by any person or for any cause whatever, but the same shall be conclusive for the purpose of such election. And it shall be the duty of the Inspectors of Elections in each ward, to receive the votes of all persons, whose names are borne on the list of voters of their ward, and to refuse the votes of all persons, whose names are not borne on said list, without any discretionary power on their part;—*Provided however*, that if any person claim to vote by a name, which, though borne on the ward list, is believed by the Inspector, to whom the vote is offered, to be intended for another person of the same name, he shall refer the same to the Warden, whose duty it shall be to decide upon the reception or rejection of the vote. And the Inspector shall cause a mark to be placed against the



3 0112 098430124

name of each voter in such list, at the time of giving his vote.

General meetings.

SECT. 37. General meetings of the citizens, qualified to vote in city affairs, may from time to time be held to consult upon the common good, to give instructions to their representatives, and to take all lawful measures to obtain a redress of any grievances, according to the right secured to the people by the constitution of this Commonwealth. And such meetings shall and may be duly warned by the Mayor and Aldermen, upon the requisition of fifty qualified voters of said city.

Warrants for public meetings.

SECT. 38. All warrants for the meetings of citizens, for municipal purposes, to be had either in general meetings or in wards, shall be issued by the Mayor and Aldermen, and in such form, and be served, executed, and returned at such time, and in such manner, as the City Council may, by any by-law or ordinance, direct and appoint.

Division into wards.

SECT. 39. It shall be the duty of the City Council, and they are empowered, *during the year 1838 and also whenever they deem it expedient, not oftener however than once in ten years*, to cause a new division of the city to be made into wards not exceeding twelve in number, in such manner as to include an equal number of inhabitants in each ward, as nearly as conveniently may be, consistently with well defined limits to each ward; including, in such computation of number of inhabitants, persons of all descriptions, and taking the last census, made under the authority of the United States, or the Commonwealth of Massachusetts, as a basis for such computation.

Amendments.

SECT. 40. Nothing in this act contained shall be so construed as to restrain or prevent the Legislature from amending or altering the same, whenever they shall deem it expedient.

Repeal.

SECT. 41. The act entitled an act establishing the City of Boston, passed Feb. 23, 1822 and all acts in addition thereto, are hereby repealed.

SECT. 42. No act which has been heretofore repealed, shall be revived by the repeal of the acts mentioned in the preceding section.